UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:16-cv-93-FDW

TOMMIE GEE,)
Plaintiff,)
vs.	ORDER
UNKNOWN DEFENDANTS, MECKLENBURG COUNTY JAIL,)))
Defendants.))

THIS MATTER is before the Court following Plaintiff's failure to comply with the Court's Notice of Deficiency, dated February 25, 2016, in which the Court directed Plaintiff to either file an application to proceed without prepayment of fees and affidavit or pay the filing fee of \$400.00.\(^1\) See (Doc. No. 7). The Court expressly warned Plaintiff in the Notice of Deficiency that his failure to correct the deficiency within 21 days "may result in the dismissal of this action without prejudice for failure to prosecute." (Id. at 1). More than 21 days has elapsed since this Court's issuance of the deficiency notice, and Plaintiff has wholly failed to respond to the Court's order. Furthermore, on April 26, 2016, the Court issued a Second Notice of Deficiency. (Doc. No. 8). That notice was returned to this Court as undeliverable on May 2, 2016, with a notation that Plaintiff is "not in Mecklenburg County Jail System." (Doc. No. 9). Given that Plaintiff has failed to respond to this Court's Notice of Deficiency, and because he has not informed the Court of his new address, this action will be dismissed without prejudice. Accord Walker v. Moak, Civil

¹ Plaintiff filed this action pro se on December 28, 2015, while a pre-trial detainee at the Mecklenburg County Jail. Plaintiff originally filed this action in the Eastern District of North Carolina, and that Court transferred the action to this Court on February 24, 2016.

Action No. 07-7738, 2008 WL 4722386 (E.D. La. Oct. 22, 2008) (recommending dismissal without prejudice of a § 1983 action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure where the plaintiff did not notify the court of his new address upon his release from jail).

IT IS, THEREFORE, ORDERED that:

- (1) This action is dismissed without prejudice.
- (2) The Clerk of this Court is directed to terminate this action.

Frank D. Whitney

Chief United States District Judge